

to the magistrate judge's report. Moreover, the report and recommendation sent to petitioner was returned with a notation on the envelope stating "FORWARD TIME EXPIRED - RETURN TO SENDER" and no change of address had been given as directed by the court.³

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Finding no error in the report, this court adopts the report and recommendation and incorporates it into this order.

For the reasons articulated by the magistrate judge, it is hereby **ordered** that the within action be **dismissed with prejudice** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for lack of prosecution.

AND IT IS SO ORDERED.


PATRICK MICHAEL DUFFY
United States District Judge

February 24, 2009
Charleston, South Carolina

and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.

³By order dated October 6, 2008, petitioner was advised to keep the court advised in writing of any change of address.

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this Order within **thirty (30) days** from the date hereof pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.